


MEMORANDUM

July 27, 2007

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: STEPHANIE JO FARRELL 
Senior Deputy County Counsel
Health Services Division

RE: Lauren C. v. Culver City Unified School District and Los Angeles
County Department of Mental Health
California Special Education Hearing Office (Case No. N20051110070)
Note: This is a technical correction requesting approval of a
settlement where the aggregate total, with invoices received,
exceeded County Counsel's settlement authority; \$18,720.00,
has already been paid under County Counsel authority.

DATE OF
INCIDENT: October 10, 2005

AUTHORITY
REQUESTED: Up to \$22,000.00

COUNTY
DEPARTMENT: Health Services Division

CLAIMS BOARD ACTION:



Approve




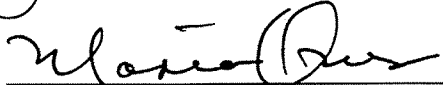
Disapprove



Recommend to Board of
Supervisors for Approval


_____, Chief Executive Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on August 6, 2007

SUMMARY

The case involves a special education student, Lauren C., in the Culver City Unified School District, who alleges deprivation of her educational rights, and related services to which she was entitled. The case went through administrative mediation and the parties were able to work out a compromise resolution. That resolution was initially calculated to be within County Counsel's delegated authority. However, the aggregate settlement amount exceeds that authority, and in order to correct that, Claims Board approval is needed.

LEGAL PRINCIPLES

Under various State and federal laws, an individual, such as Lauren, is entitled to appropriate levels of mental health services in order to enable her to access and benefit from educational services. Under these laws, it is the responsibility of the County, through the Department of Mental Health ("DMH"), to provide the mental health services necessary to achieve this goal. Further, an individual is entitled under these laws to an administrative determination as to whether she is receiving the services to which she is entitled.

Under special education administrative procedure, the parties are required to participate in administrative mediation and are encouraged to resolve their differences before proceeding with an administrative hearing. In most cases, as here, where DMH and/or the school district have denied or delayed services and anticipate liability, DMH and the school district will work out a compromise resolution to avoid additional compensatory damages, costs, and/or attorneys fees.

SUMMARY OF FACTS

Lauren C., born December 12, 1988, is autistic, mildly mentally retarded and was assessed by DMH as being schizophrenic. Believing that DMH, along with the Culver City Unified School District ("School District"), were not meeting her unique and individual education and treatment needs in accordance with federal and State law, Lauren's parents commenced an administrative proceeding in October 2005, seeking relief, including compensatory damages and attorneys fees.

Thereafter, DMH engaged in efforts to place Lauren in an appropriate residential program and to resolve the case. Lauren had been found by DMH and others to be eligible for residential placement, but their efforts to place her in an appropriate program were not successful.

Finally, in September 2006, DMH, the School District, and the Regional Center agreed to implement an in-home support program for Lauren, which included behavioral, instructional, and therapeutic support services. DMH also agreed to pay \$16,720.00 in attorney's fees and costs. DMH had previously agreed, in a prior interim agreement, to reimburse the

parents up to \$2,000.00 for costs incurred by them for past family therapy services. As part of the final settlement, DMH also agreed to pay prospectively, up to \$3,280.00, for family therapy services through the end of the 06-07 school year, upon presentation by the parents of cancelled checks and invoices.

Proceeding under County Counsel's delegated authority, \$18,720.00 was paid to the parents for attorneys fees and to reimburse them for the costs that they had incurred for family therapy. However, this did not account for the prospective therapy that DMH agreed would be reimbursed to the parents. In order to reimburse the parents for these therapy sessions, additional settlement authority from the Claims Board is needed.

To date, DMH has received invoices totaling \$1,760.00 for such therapy and therefore the total amount to be paid under the settlement exceeds County Counsel's delegated authority by \$460.00. As the family may have additional invoices for services obtained in the month of June, it is possible that DMH will be required to pay for those services as well. Accordingly, we are seeking approval up to \$22,000.00 to ensure that DMH, if necessary, has sufficient authority to pay.

DAMAGES

Itemized and documented attorney's fees and costs from October 9, 2005, when the complaint was filed, through final resolution of this case in September 2006, exceeded \$29,000.00; DMH agreed to pay \$16,720.00. Additionally, the parents have provided statements and cancelled checks for family therapy sessions, at \$80.00 per session.

STATUS OF CASE

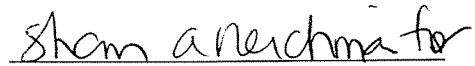
The administrative proceeding has been dismissed and other parts of the settlement have been performed, with the exception of \$1,760.00 for full reimbursement to the parents for family therapy.

EVALUATION

Lauren is a difficult to place, special education student, with mental health needs, who was entitled under State and federal laws to appropriate levels of services, including mental health services, in order to enable her to access and benefit from her educational program. Given the current state of special education law, especially as interpreted by the courts, it would have been very difficult for DMH and the school district to have prevailed in the administrative hearing and any subsequent court review. Resolving this case prior to an administrative hearing greatly reduced the total compensatory damages and related costs and fees, including attorneys fees, that would have been incurred had the matter proceeded to hearing.

It is the opinion of the Office of County Counsel that the total aggregate settlement amount reached in this case is reasonable, and that the Claims Board should authorize a total settlement up to \$22,000.00, and the Auditor-Controller be directed to make payment in an amount of \$1,760.00. The Department of Mental Health concurs with this settlement.

APPROVED:

A handwritten signature in cursive script, appearing to read "Richard K. Mason for".

RICHARD K. MASON
Assistant County Counsel
Health Services Division

SJF:ma